line along the side of a street whenever the owners of two-thirds of the abutting property should so request in writing. *Held*, that the ordinance is unconstitutional. *Eubank* v. *City of Richmond*, 226 U. S. 137, 33 Sup. Ct. 76.

A person can be deprived of property under the Constitution only by proper methods and for a proper purpose. *Cf. Westervelt* v. *Gregg*, 12 N. Y. 202. See *Davidson* v. *New Orleans*, 96 U. S. 97, 107. The principal case holds that the ordinance deprives the plaintiff of his property without due process because it allows part of the property owners on a block to determine the extent of the use that other owners shall make of their property. See 1 DILLON, MUNICIPAL CORPORATIONS, 5 ed., § 244. A former decision justifies a similar ordinance on the ground that the purpose to be accomplished was a proper subject for the exercise of the police power. *Crowley* v. *Christensen*, 137 U. S. 86, 11 Sup. Ct. 13. But the principal case properly decides that the use of improper means to deprive a person of his property is alone enough to make the act unconstitutional. This leaves open the question whether the police power may be exercised for æsthetic purposes. When that question arises it is hoped that offenses to the eye will find the same disfavor accorded to offensive noises and odors. *Ex parte Foote*, 70 Ark. 12, 65 S. W. 706; *Slaughter-House Cases*, 16 Wall. (U. S.) 36. See 20 HARV. L. REV. 43.

CONSTITUTIONAL LAW — IMPAIRMENT OF THE OBLIGATION OF CONTRACTS — CHANGE OF REMEDY INCORPORATED IN THE OBLIGATION. — A statute authorizing materialmen and laborers on public works to sue on contractors' bonds provided that no action should be brought unless the plaintiff served a notice upon the obligors within ninety days after the last item of material or service furnished. This was amended so as to require the notice within ninety days after the completion of the contract and acceptance of the building. A party who furnished materials and service before the change in the law sued on a bond but complied with the amendment only. *Held*, that the amendment does not impair the obligation of the contract contained in the bond. *National Surety Co.* v. *Architectural Decorating Co.*, 226 U. S. 276, 33 Sup. Ct. 17.

A state may change the remedy on a contract without impairing the obligation. Accordingly it may vary conditions subsequent, such as statutes of limitation, or conditions precedent, such as statutory requirements of notice. *Pleasants* v. *Rohrer*, 17 Wis. 577; *Curtis* v. *Whitney*, 13 Wall. (U. S.) 68. Whether the remedy which remains is adequate depends upon the circumstances of each case. *Berry* v. *Ransdall*, 4 Metc. (Ky.) 292; *Woart* v. *Winnick*, 3 N. H. 473; *Morris* v. *Carter*, 46 N. J. L. 260. But see *Read* v. *Frankfort Bank*, 23 Me. 318, 322. Clearly, a state may prescribe a more efficient remedy. *Bernheimer* v. *Converse*, 206 U. S. 516, 27 Sup. Ct. 755. But in the principal case the statute had been construed as though set out in the bond. See *Grant* v. *Berrisford*, 94 Minn. 45, 49, 101 N. W. 940, 942. It has been held that legislation may invalidate a provision in an insurance policy requiring suit within six months. *Smith* v. *Northern Neck Mutual Fire Association*, 112 Va. 192, 70 S. E. 482. The principal case goes even further, assuming that the statute was incorporated in the bond, for real conditions subsequent, as in the insurance policy, are enforced less strictly than conditions precedent. *Semmes* v. *Hartford Ins. Co.*, 13 Wall. (U. S.) 158; *New York Life Ins. Co.* v. *Statham*, 93 U. S. 24; *Thompson* v. *Phenix Ins. Co.*, 136 U. S. 287, 10 Sup. Ct. 1019. By the weight of authority, however, the Constitution protects express stipulations as to remedy. *Central Glass Co.* v. *Niagara Fire Ins. Co.*, 59 So. 972 (La., 1912); *Billmeyer* v. *Evans*, 40 Pa. 324; *Taylor* v. *Stearns*, 18 Gratt. (Va.) 244; *International Building & Loan Association* v. *Hardy*, 86 Tex. 610, 26 S. W. 497. See *Green* v. *Biddle*, 8 Wheat. (U. S.) 1, 84. *Cf. The Harrisburg*, 119 U. S. 199, 214, 7 Sup. Ct. 140, 147. See BLACK, CONSTITUTIONAL PROHIBITIONS, § 149. Where the parties impose conditions upon

the enforcement of a contract, they thereby directly qualify their promises, so that any change in the conditions obviously impairs the obligation. Of course if a contract specifies a remedy, such as distress for rent, which depends upon a particular legal process, the state is not precluded from abolishing the process. *Conkey* v. *Hart*, 14 N. Y. 22; *Worsham* v. *Stevens*, 66 Tex. 89, 17 S. W. 404. Such a stipulation is not thereby impaired, for it was either conditioned upon the continuance of the process, or invalid on grounds of policy. *Cf. Railroad Co.* v. *Hecht*, 95 U. S. 168. In the principal case the state court could not mean that the statute was incorporated into the contract in fact, and there is no reason to give to a fictitious incorporation the effect of a real condition precedent.

CONSTITUTIONAL LAW. — PRIVILEGES, IMMUNITIES, AND CLASS LEGISLATION — REGULATION OF TRADES: STATUTE PROHIBITING DISCRIMINATION BETWEEN DIFFERENT COMMUNITIES TO INJURE COMPETITORS. — A statute made it a crime for a producer, manufacturer, or distributor of any commodity in general use to sell in one community at a lower price than in another for the purpose of destroying the competition of an established dealer or those intending to become such. *Held*, that the statute is constitutional. *Central Lumber Co.* v. *South Dakota*, 226 U. S. 157, 33 Sup. Ct. 66.

The common law recognizes that there is a strong social interest in preserving competition, and hence discourages acts or contracts which unreasonably stifle competition. *King* v. *Waddington*, 1 East 143; *Alger* v. *Thacher*, 19 Pick. (Mass.) 51. A statute which makes criminal the practice of selling a commodity in one community at a lower price than is charged in another for the purpose of destroying competition, undoubtedly limits the freedom to contract. But so long as the restraints are not arbitrary and are in the interests of society, such a limitation may be justified. *Chicago, B. & Q. R. Co.* v. *McGuire*, 219 U. S. 549, 31 Sup. Ct. 259; *Gundling* v. *Chicago*, 177 U. S. 183, 20 Sup. Ct. 633. It is generally agreed that the social interest in preserving competition does justify such a statute as that in the principal case. *State* v. *Drayton*, 82 Neb. 254, 117 N. W. 768; *In re Opinion of the Justices*, 99 N. E. 294 (Mass.). Nor does such a statute deny equal protection of the laws merely because limited in its application to those selling in two places in the state. This classification is reasonable because this class of dealers is able to cause harm to the community beyond the power of ordinary storekeepers. Statutes equally limited in their application have been held constitutional. Thus a statute relating only to insurance companies has been held valid. *Carroll* v. *Greenwich Ins. Co.*, 199 U. S. 401, 26 Sup. Ct. 66. So, too, a law was upheld which applied only to those engaged in the sale of kerosene. *State ex rel. Young* v. *Standard Oil Co.*, 111 Minn. 85, 126 N. W. 527. See 26 HARV. L. REV. 32 *et seq.*

CONTRIBUTORY NEGLIGENCE — "LAST CLEAR CHANCE" DOCTRINE. — The plaintiff, while lying drunk on a street car track, was injured by a car belonging to the defendant. The lower court charged that, even though the plaintiff was negligent, if he was drunk and helpless and the motorman could, by the use of due care, have avoided the accident, the plaintiff might recover. *Held*, that the charge is erroneous. *Craig* v. *Augusta-Aiken Ry. Co.*, 76 S. E. 21 (S. C.).

The principal case seems to disregard the "last clear chance" doctrine which is now almost universally recognized. It is generally true that a plaintiff whose negligence contributed as a legal cause of his injury is precluded from recovery. *Neal* v. *Gillett*, 23 Conn. 437; *Payne* v. *Chicago & Alton R. Co.*, 129 Mo. 405, 31 S. W. 885. That severe rule, however, has been modified in several instances. Thus where a negligent